

FILE COPY

STATE OF WISCONSIN  
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY  
PROCEEDINGS AGAINST

BRIAN R. MOLSTAD, M.D.,  
RESPONDENT.

FINAL DECISION  
AND ORDER  
LS9503091MED

The State of Wisconsin, Medical Examining Board, having considered the above-captioned matter and having reviewed the record and the Proposed Decision of the Administrative Law Judge, makes the following:

ORDER

NOW, THEREFORE, it is hereby ordered that the Proposed Decision annexed hereto, filed by the Administrative Law Judge, shall be and hereby is made and ordered the Final Decision of the State of Wisconsin, Medical Examining Board.

The rights of a party aggrieved by this Decision to petition the department for rehearing and the petition for judicial review are set forth on the attached "Notice of Appeal Information."

Dated this 25<sup>th</sup> day of May 1995.

Ann M. Blumstein MD

State of Wisconsin  
Before the Medical Examining Board

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In the Matter of Disciplinary Proceedings Against  
BRIAN R. MOLSTAD, M.D.,  
Respondent.  
LS 9503091 MED

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PROPOSED DECISION

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The parties to this proceeding for purposes of s. 227.53, Stats., are:

Brian R. Molstad, M.D.  
5601 Wentworth Avenue, South  
Minneapolis MN 55419

The Medical Examining Board  
Department of Regulation and Licensing  
P.O. Box 8935  
Madison WI 53708

Division of Enforcement  
Department of Regulation and Licensing  
P.O. Box 8935  
Madison WI 53708

A hearing was held in this matter on April 11, 1995. Attorney Roger Hall appeared for the Division of Enforcement. There was no appearance by or on behalf of Dr. Molstad, nor was any answer to the Complaint in this matter filed by or on behalf of Dr. Molstad. Pursuant to s. RL 2.14, Wis. Admin. Code, Dr. Molstad is in default, and the allegations of the complaint in this matter may be used as the basis for the findings in this proceeding.

Based on the entire record and file in this matter, the Administrative Law Judge recommends that the Medical Examining Board adopt the following Findings of Fact, Conclusions of Law and Order as its Final Decision.

**FINDINGS OF FACT**

1. Brian R. Molstad, M.D., is licensed and registered to practice medicine and surgery in the state of Wisconsin, pursuant to license number 19243, which was first granted on April 17, 1975.
2. Respondent's latest address on file with the Department of Regulation and Licensing is 5601 Wentworth Avenue South, Minneapolis, Minnesota 55419.
3. On July 21, 1993, the Wisconsin Medical Examining Board issued an Order limiting the license of Dr. Molstad, prohibiting him from practicing medicine and surgery in the state of Wisconsin.

4. On October 7, 1994, the Minnesota Board of Medical Practice issued Findings of Fact, Conclusions and an Order revoking the license of Dr. Molstad. The basis of the revocation was the Findings that Dr. Molstad had engaged in conduct demonstrating a willful or careless disregard for the welfare of patients, engaged in conduct likely to harm the public, practiced medicine in a professionally incompetent manner, departed from or failed to conform to the minimal standards of acceptable and prevailing medical practice, improperly managed medical records, and that Dr. Molstad exhibits a personality disorder such that he is unable to practice medicine with reasonable skill and safety.

### CONCLUSIONS OF LAW

1. The Medical Examining Board has jurisdiction in this matter pursuant to s. 448.02(3), Stats.
2. By having his Minnesota license to practice medicine and surgery revoked, Dr. Molstad has engaged in unprofessional conduct within the meaning of s. 448.02(3), Stats, and s. MED 10.02(2)(q), Wis. Admin. Code.

### ORDER

Now, therefore, it is ordered that the license previously issued to Brian R. Molstad, M.D., be and hereby is revoked.

### OPINION

The record in this case consists primarily of the Findings, Conclusions and Order of the Minnesota Board of Medical Practice. That document shows that Dr. Molstad has for some time exhibited great deviations from the standards of medical practice patients have reason to expect will be followed. It is possible that Dr. Molstad will at some time be a fit subject for relicensure in Wisconsin, but it is not at all clear how or when that rehabilitation will be accomplished. The burden of demonstrating renewed competence should be on Dr. Molstad, and this Order is intended to that end.

I decline to order costs in this matter as the costs are minimal, Dr. Molstad was ordered to pay substantial costs in the Minnesota proceedings on which this action is based, and it appears that at least some portion of the unprofessional conduct in which Dr. Molstad engaged is attributable to a psychological condition, which, although it may be controllable, was evidently beyond Dr. Molstad's control.

Dated this <sup>13</sup>~~12~~th day of April, 1995.

James E. Polewski

James E. Polewski  
Administrative Law Judge

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## NOTICE OF APPEAL INFORMATION

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**Notice Of Rights For Rehearing Or Judicial Review, The Times Allowed For Each, And The Identification Of The Party To Be Named As Respondent.**

**Serve Petition for Rehearing or Judicial Review on:**

THE STATE OF WISCONSIN MEDICAL EXAMINING BOARD.

1400 East Washington Avenue

P.O. Box 8935

Madison, WI 53708.

**The Date of Mailing this Decision is:**

MAY 30, 1995

### **1. REHEARING**

Any person aggrieved by this order may file a written petition for rehearing within 20 days after service of this order, as provided in sec. 227.49 of the *Wisconsin Statutes*, a copy of which is reprinted on side two of this sheet. The 20 day period commences the day of personal service or mailing of this decision. (The date of mailing this decision is shown above.)

A petition for rehearing should name as respondent and be filed with the party identified in the box above.

A petition for rehearing is not a prerequisite for appeal or review.

### **2. JUDICIAL REVIEW.**

Any person aggrieved by this decision may petition for judicial review as specified in sec. 227.53, *Wisconsin Statutes* a copy of which is reprinted on side two of this sheet. By law, a petition for review must be filed in circuit court and should name as the respondent the party listed in the box above. A copy of the petition for judicial review should be served upon the party listed in the box above.

A petition must be filed within 30 days after service of this decision if there is no petition for rehearing, or within 30 days after service of the order finally disposing of a petition for rehearing, or within 30 days after the final disposition by operation of law of any petition for rehearing.

The 30-day period for serving and filing a petition commences on the day after personal service or mailing of the decision by the agency, or the day after the final disposition by operation of the law of any petition for rehearing. (The date of mailing this decision is shown above.)